

Shagufta
Q.
Pathan

Digitally
signed by
Shagufta Q.
Pathan
Date:
2021.03.19
16:55:46
+0530

22-IA-839-2021.doc

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

***CRIMINAL BAIL APPLICATION NO. 839 OF 2021
IN
CRIMINAL APPEAL NO. 224 OF 2021***

Chetnanand Arjun Naik	...Applicant
Versus	
The State of Maharashtra & Anr.	...Respondents

Mr. Prakash N. Wagh for the Applicant

Mr. S. V. Gavand, A.P.P for the Respondent No.1–State

Ms. Ameeta Kuttikrishnan, Appointed Advocate for the Respondent No. 2

CORAM : REVATI MOHITE DERE, J.

FRIDAY, 19th MARCH 2021

P.C. :

1 At the outset, learned counsel for the applicant seeks leave to amend to correct the name of the applicant. Leave granted. Amendment be carried out forthwith.

2 Heard learned counsel for the parties.

3 By this application, the applicant seeks his enlargement on bail, pending the hearing and final disposal of the appeal.

4 The applicant, vide judgment and order dated 25th February 2021, passed by learned Special Judge (POCSO) for Greater Bombay in POCSO Special Case No. 211/2018, has been convicted and sentenced as under:

- for the offence punishable under Section 9(m) r/w 10 of the Protection of Children from Sexual Offences Act ('POCSO'), to suffer rigorous imprisonment for 5 years and to pay fine of Rs.20,000/-, in default of payment of fine, to undergo further rigorous imprisonment for 2 months.

The find amount, if realised, was directed to be paid to the victim girl, as compensation.

5 Learned counsel for the applicant submits that out of the 5 years awarded by the trial Court, the applicant has undergone imprisonment of more than 3 years 1 month. He submits that the applicant has suffered paralysis of one side of his body and requires to be looked after. He further submits that the applicant, if enlarged on bail, will not reside within the jurisdiction of Bhandup Police Station and will reside at Kalwa with his father-in-law for some time, if required.

6 Learned A.P.P has tendered discharge summary papers of the applicant of J. J. Hospital. The same are taken on record. It appears that the applicant was admitted in J. J. Hospital on 16th February 2021 and was discharged from the said Hospital on 15th March 2021. It appears from the history given that the applicant was brought from Arthur Road Jail, as there was weakness on the right side of his body. The CT brain angio shows acute non hemorrhagic infarct in anterior region of left temporal chronic small vessel ischemic changes with mild generalised cerebral atrophy encephalomalacia with perifocal gliosis in bilateral caudate nucleus. It appears that there are certain changes which were found. Whilst discharging the applicant, medication was prescribed and advice was given to follow-up in Neurosurgery OPD; Neurology OPD; Medicine OPD 20; Cardiology OPD 32; Ophthalmology OPD for 6 monthly fundoscopy. The following was again advised i.e. strict adherence to medication, low salt diet, follow-up with physiotherapy, frequent change in position every 2 hours and change foley's catheter every 21 days. It thus appears that the applicant is bed-ridden. Even today, he is kept in a prison hospital.

7 Learned A.P.P. has also tendered the medical report of the Chief Medical Officer, Mumbai Central Prison, Mumbai dated 18th March 2021. The same is taken on record. The said report also shows that the

applicant is suffering from accelerated hypertension and paralysis, for which, he was given treatment at J. J. Hospital. It is further stated that as per the J. J. Hospital discharge card, the applicant was found to be suffering from right hemiparesis due to left gangliocapsular hemorrhage in a newly diagnosed case of hypertension with hypertensive heart disease. In short, paralysis due to brain hemorrhage. It is stated that after treatment, he is now stable and is kept in prison hospital and that his blood pressure is under control and he is stable.

8 The sentence awarded is a short terms sentence. The appeal has been admitted by a separate order passed in the aforesaid appeal on 10th March 2021. The applicant has already undergone imprisonment of 3 years 1 month i.e. more than ½ sentence.

9 Considering the aforesaid and the medical condition of the applicant, the application is allowed and the applicant's sentence is suspended and he is enlarged on bail, pending the hearing and final disposal of his appeal, on the following terms and conditions :

ORDER

- (i) The applicant be released on cash bail in the sum of Rs. 15,000/-, for a period of eight weeks;

(ii) The applicant shall within the said period of eight weeks, furnish P.R. Bond in the sum of Rs. 15,000/- with one or more sureties in the like amount;

iii) The applicant shall not enter the jurisdiction of Bhandup Police Station, until further orders;

iv) The applicant shall keep the trial Court informed of his current address, where he intends to reside and mobile contact number and/or change of residence or mobile details, if any, from time to time;

10 The application is disposed of accordingly.

11 High Court Legal Services Committee to award fees of the learned appointed Advocate Ms. Kuttikrishnan, as per Rules.

12 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.